

Message Text

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PAGE 01 SEOUL 04429 260842Z

ACTION EA-09

INFO OCT-01 EB-07 ISO-00 SS-15 AGRE-00 CIAE-00 INR-07

LAB-04 NSAE-00 EPG-02 SP-02 STR-04 TRSE-00 FRB-03

OMB-01 L-03 NSC-05 PA-01 PRS-01 /065 W

-----260848Z 051438 /10

P 260751Z MAY 77

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC PRIORITY 4164

INFO USDOC WASHDC PRIORITY

C O N F I D E N T I A L SEOUL 4429

EO 11652: GDS

TAGS: BEXP EIND KS

SUBJ: DEPUTY UNDER SECRETARY ANNE WEXLER'S TRIP TO KOREA

REF: (A) SEOUL 4091, (B) SEOUL 2340

1. AMERICAN CHAMBER OF COMMERCE PRESIDENT RICHARD WITT RECENTLY SUGGESTED THAT CHAMBER MIGHT BRING UP MATTER OF LACK OF PATENT PROTECTION DURING FORTHCOMING VISIT OF DEPUTY UNDER SECRETARY OF COMMERCE. IN SUBSEQUENT DISCUSSION WITH WITT, IT APPEARS THAT HIS INTEREST MAY BE MORE CORPORATE IN NATURE THAN REPRESENTATIVE OF AMERICAN CHAMBE AS A WHOLE. WITT IS RESIDENT DIRECTOR OF UNION CARBIDE, WHICH LAST MONTH AMCHEM PRODUCTS, INC. AMCHEM'S PATENT PROBLEMS IN KOREA WAS SUBJECT OF MARCH 4 LETTER FROM JOSEPH LIGHTNER, DEPUTY DIRECTOR FBPD, TO EMBASSY, ANNOUNCING FORTHCOMING VISIT OF AMCHEM'S WILBUR F. EVANS. (EVANS APPEARED AT EMBASSY IN EARLY APROL, AND BRIEFED US ON PROBLEM. WE MADE APPOINTMENT FOR HIM AT PATENT OFFICE, AND ALTHOUGH HE PROMISED TO BIREF US ON RESULTS OF MEETING, HE DID NOT REUTRN TO EMBASSY). CONCURENTLY, EMBASSY WAS HOLDING DISCUSSIONS WITH PATENT OFFICE, INVOLVING RECENT EXCHANGE OF COMMUNICATIONS (SEOUL 4076, SEOUL 2340, STATE 25665, AND PREVIOUS), ALSO RELATING TO RIGHT OF PRIORITY ON PATENT APPLICATIONS FILED IN KOREA.

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2. EMBASSY ALSO HAS COPIES OF RECENT CORRESPONDENCE BETWEEN AMERICAN CHAMBER OF COMMERCE OF KOREA PRESIDENT WITT AND EPB IN WHICH EPB ASSISTANT MINISTER, IN HIS MAY 9 REPLY, ATTRIBUTED DELAY IN PROCESSING APPLICATIONS BY AMCHEM AS WELL AS KOREAN APPLICANTS TO INCREASED WORKLOAD, WHICH ROKG HOPED TO CORRECT AT EARLIEST POSSIBLE DATE. ASSISTANT MINISTER ASSURED WITT THAT

APPLICATIONS OF AMCHEM PRODUCTS WILL BE PROCESSED WITH ALL POSSIBLE DISPATCH BY PATENT OFFICE IN ACCORDANCE WITH THE PRIORITY OF RECEIPT AND THAT "THE SCIENTIFIC AND LEGAL ASPECTS OF THEIR CLAIM WILL BE GIVEN EVERY CONSIDERATION IN A MANNER WHICH WILL IN NO WAY REFLECT DISCREDIT UPON KOREA'S LEGAL OR BUSINESS PRACTICES."

3. EMBASSY FSL EMPLOYEE SUBSEQUENTLY QUESTIONED LAWYER AT PATENT OFFICE ON MATTER AND WAS INFORMED THAT (1) THERE IS NORMALLY A ONE TO TWO YEAR BACKLOG OF PENDING PATENT APPLICATIONS, (2) WHEN THERE ARE TWO APPLICANTS ON SAME PATENT, THE RIGHT OF PRIORITY WILL BE GIVEN TO THE FIRST APPLICANT TO APPLY, AND (3) HE WILL NEVERTHELESS NOT HAVE THE RIGHT TO EXERCISE HIS PATENT RIGHT UNTIL THE FORMAL REGISTRATION PROCEDURE IS COMPLETED.

4. DEPARTMENT NO DOUBT HAS COPY OF KOREAN PATENT ACT OF 1973, INCLUDING ARTICLE 83 (1) "IF AN EXAMINER FINDS NO REASON FOR REJECTING A PATENT APPLICATION, HE SHALL MAKE A DECISION TO ANNOUNCE THAT AN APPLICATION FOR A PATENT IS DULY APPLIED," AND ARTICLE 91 (1) "UPON ANNOUNCEMENT OF AN APPLICATION, THE INVENTION FOR WHICH A PATENT IS APPLIED FOR SHALL BE DEEMED TO HAVE THE EFFECT OF A PATENT RIGHT FROM THE DATE OF ANNOUNCEMENT OF THE APPLICATION."

5. EMBASSY IS NOT INFORMED ON SIGNIFICANCE DEPARTMENT ATTACHES TO KOREA-SPAIN PATENT AGREEMENT (SEOUL 4076), NOR ON DEPARTMENT'S LEGAL INTERPRETATION OF WHETHER U.S.-KOREA FCN TREATY MIGHT APPLY WITH RESPECT TO RIGHT OF PRIORITY FOR APPLICATION (SEOUL 2340).

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6. RECOMMEND THAT DEPUTY UNDER SECRETARY WEXLER BE BRIEFED ON CURRENT STATUS THIS MATTER, AND THAT POST BE INFORMED.
SNEIDER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: VISITS, PATENT LICENSING
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Sent Date: 26-May-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
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Handling Restrictions: n/a
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TAGS: BEXP, EIND, OTRA, US, KS, AMCHAMS, (WEXLER, ANNE), (WITT, RICHARD)
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